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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,369	12/29/2003	Diego Raul Mazzola	TI-35096	8165
23494	7590	10/18/2007		
TEXAS INSTRUMENTS INCORPORATED P O BOX 655474, M/S 3999 DALLAS, TX 75265			EXAMINER LUU, LE HIEN	
			ART UNIT 2141	PAPER NUMBER
			NOTIFICATION DATE 10/18/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com  
uspto@dlemail.itg.ti.com

## Office Action Summary

**Application No.**

10/748,369

**Applicant(s)**

MAZZOLA, DIEGO RAUL

**Examiner**

Le H. Luu

**Art Unit**

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 7 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/29/03</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1-29 are presented for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-6, 8-22, and 24-29 are rejected under 35 U.S.C. § 102(a) as being anticipated by Neal et al. (Neal) Pub. No. 2003/0118028.

4. As to claim 1, Neal teaches the invention as claimed, including a home gateway for providing QoS to home LAN devices on a home network having a non-QoS capable device, the gateway comprising:

a modem operable to bridge traffic between a home LAN of the home network and a WAN cable network (pages 1-2, paragraphs [0014 - 0017]; Fig. 1); and

a portal service interface connected to the modem, the interface adapted to operate as a proxy for QoS reservations associated with the non-QoS capable device and data communications traffic between the non-QoS capable device and other home LAN devices on the home network (pages 1-2 , paragraphs [0005, 0019 - 0026]).

5. As to claims 2-3, Neal teaches the portal service interface is adapted to make requests for the non-QoS capable home LAN device operating as a client by obtaining a set of QoS requirements of the client and inputting such QoS requirements into the

gateway for selectively transmitting or receiving data, based on the QoS needs of the non-QoS capable home LAN device on the home network; wherein the portal service interface is further adapted to obtain the QoS requirements of the client and communicate such QoS requirements to the home LAN thru the modem, thereby allowing the gateway to selectively control the local transmissions of the data originating from the gateway along with a QoS or non-QoS capable home LAN device on the home network to coordinate the QoS needs of all the home LAN devices on the home network (page 2, paragraphs [0024 – 0025]).

6. As to claims 4-6, Neal teaches the portal service interface comprises at least one of hardware, firmware and software; the portal service interface comprises a web browser operable to request, facilitate an input and determine the QoS requirements of the non-QoS capable device on the home network based on the input; the web browser comprises an HTTP protocol to request, input and determine the QoS requirements of the non-QoS capable device on the home network (page 2, paragraph [0021]).

7. As to claim 8, Neal teaches the portal service interface is further operable to communicate the QoS needs of the non-QoS capable home LAN device to the home network using an RSVP reservation protocol (page 2, paragraph [0026]).

8. As to claim 9-11, Neal teaches the home network comprises multiple LAN segments; the multiple LAN segments each comprise a QoS or non-QoS capable home

LAN device; the QoS capable home LAN device is CableHome compliant and the non-QoS capable home LAN device is non-CableHome compliant, respectively (pages 1-2 , paragraphs [0005, 0014, 0019 - 0026]).

9. As to claims 12-16, Neal teaches the home LAN device comprises customer premises equipment; the modem is adapted to bridge traffic between multiple LAN segments of the home network; the modem is one of a cable modem and a DSL modem; the portal service interface further comprises a traffic monitoring system operable to automatically determine QoS requirements of the non-QoS home LAN device coupled thereto; the traffic monitoring system is further operable to automatically establish a connection between the devices on the home LAN, and to manage the exchange of information between the devices based on the QoS needs of the device (pages 1-2 , paragraphs [0005, 0014, 0019 - 0026]).

10. Claims 17-22 and 24-29 have similar limitations as claims 1-6 and 8-16; therefore, they are rejected under the same rationale.

11. Claims 7 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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12. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985) *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

13. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

14. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 1-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 10/748,042. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of copending

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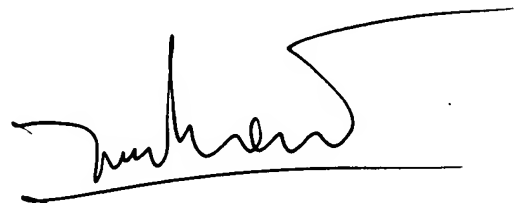
Application No. 10/748,042 contains every element of claim 1 of the instant application and thus anticipate the claim of the instant application. At least one claim of the instant application is unpatentable over obvious-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written over a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER